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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,221	11/28/2001	Michael A. Whitby	006593-1908	2780

33375 7590 04/01/2003

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EXAMINER

HUYNH, LOUIS K

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 04/01/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

N.K.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/996,221	WHITBY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Louis K. Huynh	3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____.                                   |

Art Unit: 3721

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 1-15 and 18-24 in Paper No. 6 is acknowledged.
2. New claims 25 and 26 will be examined on the merits along with the elected claims of Group I.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (a) the conveying system comprising a single conveyor that is capable of varying the lateral position of the package (claims 15 and 22); (b) the conveying system comprising an elevator (claim 23); and (c) the conveying system comprising conveyor roller (claim 24) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
4. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 14 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3721

Claim 14 and 21 are vague and indefinite for it is unclear as to the movement of one conveyor section with respect to the other and whether or not the pivotal motion of the conveyor sections has anything to do with the lateral positioning of the package.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-13, 15, 18-20, 22, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitby'787 (US 5,144,787) in view of Remensperger (US 3,915,282).

Whitby'787 discloses a packaging system for wrapping a package (102) including: an infeed station (104), a wrapping station (106); a film dispensing station (112); and an infeed conveyor (110). The packaging system of Whitby'787 meets all of applicant's claimed subject matter but lacks the specific teaching of a second conveyor, a sensor for sensing lateral position of the package, an actuator for controlling a relative position of the output end the second conveyor to the input end of the first conveyor, and a controller for receiving signals from the sensor and for controlling the actuator.

However, Remensperger discloses a system for conveying and centering articles (10) including: an intermediated conveyor (16), an actuator (38) for controlling a lateral position of the intermediate conveyor (16), an array of optical sensors (62, 64) for sensing lateral position of the article, and a controller (78) for receiving signals from the sensors and for controlling the

Art Unit: 3721

actuator (38) so as to adjust the lateral position of the article prior to transferring the article to a receiving conveyor (18) (column 2, lines 33-42).

Since the packaging system of Whitby'787 requires the package to be laterally centered on the elevator platform (118); therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the packaging system of Whitby'787 by having provided an intermediate conveyor, sensors for sensing lateral position of the package, an actuator for controlling the lateral position of the second conveyor, and a controller for receiving the signals from the sensors and for controlling the actuator, as taught by Remensperger, in order to automatically laterally center the package prior to transferring the package to the wrapping station.

With respect to claims 2, 3, 11 and 13, in the modified packaging system of Whitby'787, the intermediate conveyor of Remensperger could be positioned either before or after the infeed conveyor (110) because the package (102) would still be laterally centered on the elevator platform (118) in the wrapping station.

With respect to claim 6, using an array of mechanical sensors for sensing position of an article being conveyed along a conveying path is well known in the art; therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have modified the packaging system of Whitby'787 by having provided an array of mechanical sensors for sensing the position of the article to be wrapped. Furthermore, it would have been obvious to an ordinary skilled person in the art as an engineering design choice to have used an array of mechanical sensors in place of an array of optical sensors since it does not solve any

Art Unit: 3721

stated problem insofar as the record is concerned and thus does not patentably distinguish the claimed subject matter over the applied prior art.

With respect to claims 15 and 22, in the modified packaging system of Whitby'787, the intermediate conveyor of Remensperger could replace the infeed conveyor (110) because the package (102) would be laterally centered on the elevator platform (118) in the wrapping station with the lateral adjustable conveyor of Remensperger.

7. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitby'787 (US 5,144,787) in view of Remensperger (US 3,915,282) as applied to claim 18 above; and further in view of Carlson (US 3,621,973).

The modified packaging system of Whitby'787 meets all of applicant's claimed subject matter but lacks the specific teaching of the conveying system comprising an elevator that is laterally adjustable relative to a substantially horizontal conveyor and/or comprising a conveyor roller positioned on a guide rod for lateral movement.

However, Carlson discloses a well known conveyor system (16) for shifting a load laterally including a conveyor having a plurality of spaced apart power driven rollers (36) and a shifter having a plurality of spaced apart rails (60) which are movable upwardly between the spaces between the rollers (36) and laterally so as to shift the load laterally to a desired position.

Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have further modified the packaging system of Witby'787 by having provided a conveyor system including a conveyor having a plurality of spaced apart power driven rollers (36) and a shifter having a plurality of spaced apart rails, as taught by

Art Unit: 3721

Carlson, in order to shift the package laterally to a desired position. Furthermore, it would have been obvious to an ordinary skilled person in the art as an engineering design choice to have used a conveyor system of Carlson in place of the intermediate conveyor of Remensperger since it does not solve any stated problem insofar as the record is concerned and thus does not patentably distinguish the claimed subject matter over the applied prior art.

8. Claims 14 and 21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitby'787 (US 5,144,787) in view of Remensperger (US 3,915,282) as applied to claims 12 and 18 above; and further in view of Gotthardt et al. (US 1,808,134).

The modified packaging system of Whitby'787 meets all of applicant's claimed subject matter but lacks the specific teaching of the conveying system comprising a conveyor including a first section, a second section pivotally coupled to the first section, a third section pivotally coupled to the second section, and an actuator connected for lateral movement of at least one section.

However, Gotthardt discloses a conveyor including a first section (10), a second section (15) pivotally coupled to the first section, a third section (14) pivotally coupled to the second section, and an actuator (35) connected to effect lateral movement of the second and third sections so as to deliver article laterally to a desired location.

Therefore, it would have been obvious to a person with an ordinary skill in the art, at the time the invention was made, to have further modified the packaging system of Whitby'787 by having provided a conveyor having three pivotally connected sections, as taught by Gotthardt, in order to deliver articles to multiple wrapping machines.

Art Unit: 3721

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure has been cited on form PTO-892 along with the applied prior art.

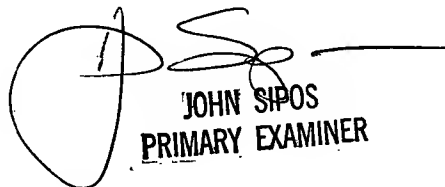
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is (703) 306-5694.

The examiner can normally be reached on M-F from 9:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (703) 308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

LH  
March 23, 2003

  
JOHN SIPOS  
PRIMARY EXAMINER